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FILED
2010 FEB 18 PM 2:49
FOR CIRCUIT COURT
OF MULTNOMAH COUNTY

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

JONATHAN HARRISON,

Plaintiff,

v.

LANGE TRUCKING, INC.; WILLIAM
LANGENHUIZEN aka "Willy Lange";
ROBERT LANGENHUIZEN aka "Bob
Lange"; STEVE BAILEY; and DAVID
ROGERS,

Defendants.

Case No. 1002-02200

**AMENDED COMPLAINT AND JURY
DEMAND**

1. Injured Worker Discrimination ORS 659A.040
2. Failure to Reinstate ORS 659A.043/046
3. Whistleblowing ORS 659A.199/230
4. OFLA Violations ORS 659A.150 et seq.
5. Retaliation ORS 659A.030(1)(f)
6. Aiding & Abetting ORS 659A.030(1)(g)
7. Retaliation ORS 654.062
8. Wage Retaliation ORS 652.355/ORS 653.060
9. Wrongful Discharge
10. Defamation
11. Intentional Interference w/ Economic Relations
12. Intentional Interference w/ Economic Relations
13. Failure to Pay Back Wages-
Civil Penalty ORS 652.140/150
14. Defamation
15. Intentional Interference w/ Economic Relations

[NOT SUBJECT TO ARBITRATION]

[Damages not to exceed \$499,999]

Plaintiff, Jonathan Harrison, for his complaint alleges as follows:

JURISDICTION, VENUE, AND PARTIES

1.

Defendant ("LANGE TRUCKING") is a corporation created under the laws of the State of California conducting business in the State of Oregon. At all material times, LANGE TRUCKING was Plaintiff's employer and it conducted regular, substantial, and sustained business activity in Oregon, including Multnomah County.

1
2. 2.

3 All employees relevant to the allegations herein, including, but not limited to, Defendants
4 William Langenhuizen aka "Willy Lange" ("WILLY LANGE"), Robert Langenhuizen aka "Bob
5 Lange" ("BOB LANGE"), and Steve Bailey ("BAILEY") were at all material times authorized
6 agents of and/or employed by LANGE TRUCKING and were in substantial part acting within
7 the scope of such agency and/or employment. At all material times, WILLY LANGE was the
8 co-owner/vice-president of LANGE TRUCKING with direct supervisory authority over Plaintiff.
9 BOB LANGE was co-owner of LANGE TRUCKING with supervisory authority over Plaintiff.
10 At all material times, BAILEY was a managerial employee of LANGE TRUCKING. At all
11 material times, Rebecca Lee ("Lee") was responsible for handling the human resources functions
12 at LANGE TRUCKING.

13 3. 3.

14 Defendant David Rogers ("ROGERS") is an individual that works at the United States Post
15 Office main branch in Portland, Oregon. Plaintiff is informed and believes that ROGERS is a
16 resident of the State of Oregon and all relevant facts relating to claims against ROGERS
17 occurred in Multnomah County.

18 4. 4.

19 Plaintiff was an employee of LANGE TRUCKING from on or about June 7, 2005 until his
20 termination on March 23, 2009.

21 **STATEMENT OF FACTS**

22 5. 5.

23 Plaintiff was hired as a truck driver by LANGE TRUCKING on or about June 7, 2005.
24 Throughout Plaintiff's employment with LANGE TRUCKING he preformed his job
25 professionally and efficiently. Plaintiff was considered a valuable employee and was never
26 written up or otherwise disciplined prior to his termination.

1 6.
2 Plaintiff's job required him to deliver goods for LANGE TRUCKING on the West Coast,
3 including the State of Oregon. The substantial events relating to Plaintiff's claims occurred in
4 Multnomah County, Oregon. At all material times, Plaintiff resided in the State of Oregon.
5

6 7.
7 In or about December 2008, Plaintiff was delayed on his deliveries by snow storms and other
8 inclement weather in the Pacific Northwest. As a result, it took Plaintiff approximately an
9 additional eighteen hours to perform his normal route. As a result, Plaintiff contacted WILLY
10 LANGE and inquired about payment of additional wages for the extended time. WILLY
11 LANGE became very angry at Plaintiff and initially refused to pay Plaintiff for the extra hours.
12 Ultimately, Plaintiff argued with WILLY LANGE and forced him to pay for the extra hours.
13 Thereafter, WILLY LANGE became cold and distant toward Plaintiff.
14

15 8.
16 Many of the trucks used by LANGE TRUCKING were old and poorly maintained; some had
17 over one million miles on them. Plaintiff and other drivers routinely complained about the
18 maintenance and safety problems with the trucks to BAILEY and others in management, but the
19 typical response was "if you don't like it get another job" or "stop the truck and I'll get another
20 driver."
21

22 9.
23 In particular, Plaintiff complained to BAILEY about the worn shock absorbers on the seats of
24 some of the trucks he was forced to drive. Plaintiff reported that it posed a serious safety hazard
25 on the road when the truck went over a bump or pothole because it caused the seat to bounce up,
26 down and round with great force, making it impossible to control the truck or to apply breaks.
When the seat would go up, the driver's whole body would shoot up with the force of the seat to

1 a point that driver's feet could no longer reach any of the pedals. When the seat would come
2 crashing down, the driver's foot could then get randomly slammed on any of the pedals.
3

4 10.

5 To fix the problems without spending any money on parts or repairs, the maintenance crew and
6 the drivers, with the management's encouragement and approval were forced to get creative. For
7 example, the hinges in the seats were so worn that unless artificially propped up with a board,
8 they could not hold the drivers upright. Therefore, the seats were propped up with a piece of
9 wood to prevent the drivers from falling completely backwards into the sleeping cabin. These
10 boards were not secured and would often shift in position which required the drivers to readjust
11 them while driving, thereby posing a great danger to themselves and others on the road.

12 11.

13 On February 19, 2009, Plaintiff was forced to drive a truck with worn shock absorbers on the
14 seats which caused the seat to go up and down each time the truck went over a bump or into a
15 pothole. Plaintiff was driving slowly on the streets of Portland, in route to drop off his trailer at a
16 yard in Portland. Before he could complete his route, he felt the truck being pushed from the
17 passenger side. Plaintiff believed that his truck was hit by another vehicle. As he tried to gain
18 control to stop the truck, his seat began to violently jump up and down. Plaintiff bounced all
19 over the place in his seat after the impact and his efforts to apply the break and to control the
20 vehicle were not successful. Plaintiff's truck hit several unoccupied parked vehicles before it
21 came to a stop. Plaintiff sustained bodily injuries and was in severe pain and shock. Plaintiff
22 became incoherent immediately after the impact and was unable to full answer any questions
23 regarding the accident.

24 ///

25 ///

26 ///

12.

1 Plaintiff, dazed and in pain was transported from the scene of the accident to the emergency
2 room for treatment. Plaintiff was initially and wrongly cited for reckless driving at the time but
3 the charges were later dismissed by the Traffic Court, once the facts of the case became clear.
4

5 13.

6 LANGE TRUCKING had a contract to transport mail for the United Post Office (USPS).
7 Defendant ROGERS worked for the USPS office in downtown Portland and had regular contact
8 with Plaintiff on his routes to unload the mail. ROGERS was always rude and demeaning toward
9 Plaintiff. Plaintiff perceived ROGERS to be very lazy and slow. ROGERS at times would
10 purposely delay the unloading because he knew that Plaintiff needed to get back in time.
11

12 14.

13 After learning of the accident, Plaintiff learned that ROGERS had flagged down third parties on
14 his own initiative and maliciously defamed Plaintiff by falsely stating Plaintiff was at fault
15 because Plaintiff "is always in a hurry and very demanding when it comes to unloading him
16 quickly" and that Plaintiff "did not even have to be in until 8:00 p.m." implying that Plaintiff was
17 unreasonably hasty. ROGERS was trying to get Plaintiff in trouble by stating that he had gotten
18 into an accident because he was rushing to get back. On information and belief, he was a
19 contributing factor in Plaintiff being cited for the accident and having to incur attorney's fees and
20 costs in getting the citation dismissed.

21 15.

22 Plaintiff went on approved workers' compensation leave commencing February 19, 2009 due to
23 the work related injuries he sustained in the accident.
24

25 ///
26 ///
27 ///

1 16.

2 Dr. Michael Hortsch completed a medical release on March 10, 2009, returning Plaintiff to full
3 duty effective March 23, 2009. Plaintiff faxed the return to work release to LANGE
4 TRUCKING on March 11, 2009.

5 17.

6 Within the next few days, Plaintiff spoke with WILLY LANGE about the accident and his
7 injuries. Plaintiff reported to WILLY LANGE that he was not at fault and that he believed the
8 faulty shock absorbers in the seat were the real cause of the accident. WILLY LANGE then
9 coldheartedly informed Plaintiff that he was laid-off until further notice.

10 18.

11 Dr. Hortsch completed a second medical release on March 19, 2009, again returning Plaintiff to
12 full duty, effective March 23, 2009. On or about March 20, 2009, Plaintiff called LANGE
13 TRUCKING and spoke with BAILEY and requested to return to work. BAILEY requested
14 Plaintiff fax a copy of the second medical release to LANGE TRUCKING and suggested that
15 Plaintiff get his reckless driving citation cleared before returning to work.

16 19.

17 BAILEY then told Plaintiff that he could not come back to work on March 23, 2009, and that it
18 was up to WILLY LANGE whether he could come back to work at all. BAILEY informed
19 Plaintiff that LANGE TRUCKING would let him know when he could come back to work, and
20 that they would have to work him back into the schedule. Immediately thereafter, Plaintiff faxed
21 a copy of the second medical release form to LANGE TRUCKING. Plaintiff was left thoroughly
22 confused about his employment status.

23 20.

24 Since LANGE TRUCKING would not allow Plaintiff to return to work, he applied for
25 unemployment benefits to support himself and his family.

1 21.

2 Plaintiff was successful in getting the charges dropped on March 19, 2009. On or about April 6,
3 2009, Plaintiff faxed a copy of the docket sheet for Multnomah County Court Case No.
4 Z1746151, showing that the reckless driving citation issued to Plaintiff arising out of the
5 accident that occurred on February 19, 2009 had been dismissed as of March 19, 2009, to
6 LANGE TRUCKING.

7 22.

8 On or about April 13, 2009, Plaintiff called LANGE TRUCKING and spoke with Lee. Plaintiff
9 asked if they had received the copy of the docket sheet showing the dismissal of the reckless
10 driving citation and again asked when he would be allowed to return to work. Plaintiff explained
11 that the accident was not his fault and that it was due to the truck's faulty seat. Lee again told
12 Plaintiff that it was up to WILLY LANGE and that they would be in touch with him regarding
13 his employment status. Plaintiff also requested that he be paid his outstanding vacation pay.
14 Thereafter, WILLY LANGE did not contact Plaintiff.

15 23.

16 On or about April 16, 2009, Plaintiff was issued a check for only two weeks (80 hrs) of
17 outstanding vacation pay, although he was owed three weeks (120 hrs) of vacation pay.
18

19 24.

20 On or about April 22, 2009, Chuck Berry, safety officer at LANGE TRUCKING, pulled a copy
21 of Plaintiff's Motor Vehicle Report confirming that Plaintiff had not been convicted of reckless
22 driving. However, LANGE TRUCKING still failed to contact Plaintiff or reinstate him to his
23 former position.

24 25.

25 On or about May 22, 2009, Plaintiff received a denial of unemployment benefits in the mail from
26 the Oregon Employment Department. Plaintiff was shocked to find out that the reason stated for

1 the determination to deny benefits was that he had been "discharged for violating the employer's
2 at fault accident policy." LANGE TRUCKING also claimed that Plaintiff had been terminated
3 on March 23, 2009, the same date he had been released to return to work by his doctor. Plaintiff
4 was never informed by anyone at LANGE TRUCKING that he had been terminated for such a
5 reason or that they intended to contest his claim for unemployment benefits.
6

26.

7 Plaintiff was emotionally devastated and did not understand how or when LANGE TRUCKING
8 could have determined that Plaintiff had been "at fault" for the accident that occurred on
9 February 19, 2009. Plaintiff was even more confused because the contractor's policy he received
10 from LANGE TRUCKING states that a driver would only be disqualified if he had more than
11 two at fault accidents for which he had been convicted of a moving violation in the preceding
12 three years. Therefore, even if Plaintiff was "at fault" for the accident, which he affirmatively
13 denies, such a determination should not have resulted in his immediate termination.
14

27.

15 Plaintiff is aware of other drivers getting into accidents, some of which have resulted in fatalities
16 or grave bodily harm to others. Some of these accidents were the result of faulty trucks or lack
17 of shock absorbers in the seats. Plaintiff believes and on that basis alleges that LANGE
18 TRUCKCING has a practice of knowingly making false statements about the maintenance and
19 safety of its trucks.
20

28.

21 The same day, Plaintiff called and left a message for WILLY LANGE inquiring about his
22 employment status and requesting to return to work. WILLY LANGE did not call Plaintiff back.
23 Plaintiff followed up by calling BOB LANGE to inquire about his employment status. BOB
24 LANGE never called Plaintiff back either.
25
26

1
29.

3 Plaintiff is also informed and believes that Defendants, after his termination, made false
4 statements to a number of people, including but not limited to prospective employers and other
5 third parties regarding his work performance, work history with LANGE TRUCKING, and
6 general character in an attempt to "black list" him from his profession.

7
30.

8 As a direct and proximate cause of Defendants' actions, Plaintiff has suffered and continues to
9 suffer loss of earnings, severe emotional distress, anguish, and humiliation. Plaintiff has
10 diligently attempted to mitigate his damages by attempting to obtain other employment.

11
DAMAGES

12
31.

13 Plaintiff requests an award of compensatory damages, including *inter alia*, past emotional
14 distress damages, in an amount to be determined at the time of trial in an amount not to exceed
15 \$400,000.

16
32.

17 Plaintiff has suffered and continues to suffer loss of earnings, loss of job opportunities, and other
18 employment benefits in an amount to be determined at trial and in an amount of \$99,999 together
19 with interest and the amount necessary to offset the income tax consequences of the award
20 pursuant to ORS 659A.885(1) and/or as special damages under common law. These damages are
21 continuing and Plaintiff reserves the right to amend this complaint and to introduce evidence of
22 lost wages as of the time of trial.

23
33.

24 Plaintiff also seeks equitable relief including, reinstatement to Plaintiff's former position, and a
25 permanent injunction enjoining Defendants from engaging in any employment practice which
26 discriminates on the basis as alleged in this Complaint. In the alternative, Plaintiff seeks the

1 money damages equivalent to the benefits he would have received for reinstatement.

2 34.

3 Plaintiff places Defendants on notice of Plaintiff's intent to move the Court to amend this
4 Complaint to seek punitive damages at a later date and to seek discovery of all relevant financial
5 documents from Defendants.

6 35.

7 Plaintiff also seeks reasonable attorney's fees and costs in an amount to be proven at trial
8 pursuant to ORS 659A.885(1) and/or ORS 20.107.

9
10 **FIRST CLAIM FOR RELIEF**

11 Injured Worker Discrimination in Violation of ORS 659A.040
12 (Against LANGE TRUCKING)

13 36.

14 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
15 forth herein.

16 37.

17 At all material times, Defendant employed at least six (6) persons.
18

19 38.

20 Defendant discriminated against Plaintiff for invoking his rights under ORS Chapter 656 by
21 adversely affecting Plaintiff's employment. Defendant's discrimination constitutes an unlawful
22 employment practice in violation of ORS 659A.040.

23 39.

24 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
25 paragraphs 31 through 35, inclusive, supra.
26

SECOND CLAIM FOR RELIEF

**Failure to Reinstate Injured Worker in Violation of ORS 659A.043/ORS 659A.046
(Against LANGE TRUCKING)**

40.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

41

At all material times, Plaintiff is informed and believes that Defendant employed at least twenty-one (21) persons, but in no event did Defendant employ less than six (6) persons.

42.

12 Upon being released for reemployment after a determination was made that Plaintiff was
13 medically stationary, Plaintiff requested reemployment with Defendant.

43

15 Defendant refused to reemploy Plaintiff to his former position or to other available and suitable
16 work in violation of ORS 659A.043 and ORS 659A.046. Defendant's failure to reemploy
17 Plaintiff was an unlawful employment practice.

44.

20 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
21 paragraphs 31 through 35, inclusive, *supra*.

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THIRD CLAIM FOR RELIEF

Whistleblowing – ORS 659A.199/230 (Against LANGE TRUCKING)

45.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

46.

In perpetrating the actions described in the above paragraphs, Defendant, acting individually and through its agents, violated many civil and criminal statutes and subjected Plaintiff to retaliation, and discrimination for reporting and opposing its illegal and/or criminal conduct. Defendant's actions were criminal in nature, including, but not limited to, violation of one or more of the following criminal statutes relating to Defendant's conduct was in violation of the following statutes: ORS 652.355, ORS 653.060, 654.010, 654.015, 654.020, 654.062, ORS 659A.040, ORS 659A.150 *et seq.*, ORS 659A.030, 29 U.S.C. § 2614, OAR 437-0002-2224(3), ORS 652.990; ORS 653.991; OAR 839-020-0050. Defendant's retaliation against Plaintiff for reporting illegal and/or criminal activity was in violation of ORS 659A.199 and/or ORS 659A.230 and OAR 839-010-0100 *et seq.*

47.

21 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
22 paragraphs 31 through 35, supra.

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Page 12 - AMENDED COMPLAINT AND JURY DEMAND

FOURTH CLAIM FOR RELIEF

Oregon Family Leave Act Interference, Discrimination, and Retaliation ORS 659A.150 *et seq.*
(Against LANGE TRUCKING)

48.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

49.

9 Plaintiff utilized and/or attempted to utilize leave protected by the Oregon Family Leave Act
10 (OFLA).

50

At all relevant times, Defendant employed 25 or more persons in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year immediately preceding the year in which Plaintiff utilized and/or attempted to utilize protected leave under OFLA.

51

17 At all material times, Plaintiff suffered from a serious health condition.

52

Defendant interfered with, discriminated and retaliated against Plaintiff for utilizing and/or attempting to utilize the provisions of OFLA by taking adverse employment actions against Plaintiff, including, but not limited to, terminating Plaintiff and discouraging Plaintiff from taking protected leave.

53

25 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
26 paragraphs 32, 33 and 35, supra.

FIFTH CLAIM FOR RELIEF

**Retaliation for Opposing Unlawful Discrimination (ORS 659A.030(1)(f))
(Against All Defendants, Except ROGERS)**

54.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

55.

Plaintiff engaged in protected activity when Plaintiff complained about and opposed Defendants' unlawful employment discrimination.

56

Defendants retaliated against Plaintiff by discriminating against Plaintiff in substantial part because of Plaintiff's complaints and opposition to employment discrimination against Plaintiff.

57

In perpetrating the actions described in the above paragraphs, Defendants violated ORS 659A.030(1)(f) by retaliating against Plaintiff for opposing discrimination against Plaintiff.

58

Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in paragraphs 31 through 35, inclusive, *supra*.

SIXTH CLAIM FOR RELIEF

**Aiding and abetting Discrimination and Retaliation (ORS 659A.030(1)(g))
(Against All Defendants, Except ROGERS)**

59

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

1 60.

2 Defendants participated in and assisted each other in ongoing discrimination, retaliation, and
3 harassment of Plaintiff at the work place.
4

5 61.

6 Defendants violated Oregon Revised Statute 659A.030(1)(g) by aiding each other in efforts to
7 perpetuate ongoing discrimination, retaliation, and harassment against Plaintiff.
8

9 62.

10 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
11 paragraphs 31 through 35, inclusive, supra.
12

SEVENTH LAIM FOR RELIEF

13 OSEA Retaliation – ORS 654.062
14 (Against LANGE TRUCKING)
15

16 63.

17 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
18 forth herein.
19

20 64.

21 Defendant and/or its agents/employees violated ORS 654.062 by subjecting Plaintiff to
22 discrimination, retaliation, and discharge because Plaintiff reported and opposed an unsafe work
23 environment that was in violation of 654.010, 654.015, 654.020, and OAR 437-0002-2224(3).
24

25 65.

26 Plaintiff requests an award of damages and equitable relief pursuant to ORS 654.062(d), costs,
27 and attorney's fees as alleged in paragraphs 31 through 35, inclusive, supra.
28 // /

EIGHTH CLAIM FOR RELIEF

Wage Discrimination and Retaliation ORS 652.355/ORS 653.060 (Against LANGE TRUCKING)

66.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

67

9 Defendant discriminated and retaliated against Plaintiff for making wage claims and/or inquiring
10 about Plaintiff's wages by adversely affecting Plaintiff's employment. Defendant's
11 discrimination and retaliation constitutes an unlawful employment practice in violation of ORS
12 652.355 and/or ORS 653.060.

68.

15 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
16 paragraphs 31, 32, 33, and 35, supra.

NINTH CLAIM FOR RELIEF

Wrongful Discharge (Against LANGE TRUCKING)

70.

21 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
22 forth herein.

71.

24 At all materials times, the public policy of the State of Oregon was 1) to prohibit an employer
25 from discriminating and retaliating against employees for reporting illegal and/or criminal
26

1 conduct in the workplace; and 2) to prohibit an employer from interfering with, discriminating
2 and retaliating against employees that utilize and/or attempt to utilize protected medical leave.
3 This public policy is embodied in the common law, statutes, and regulations of the State of
4 Oregon and the United States protecting the public from fraud, danger, and illegal conduct and
5 including, but not limited to: ORS 659A.199; ORS 659A.230; 29 U.S.C. § 2614; ORS 659A.150
6 *et seq.*; OAR 839-009-0200 *et seq.*; *Banaitis v. Mitsubishi Bank, LTD*, 129 Or App 371 (1994);
7 *McGanty v. Staudenraus*, 321 Or 532 (1995); *Holien v. Sears, Roebuck and Co.*, 298 Or 76
8 (1984); *McQuary v. Bel Air Convalescent Home, Inc.*, 69 Or App 107 (1984); *Yeager v.*
9 *Providence Health System Oregon*, 195 Or App 134 (2004).

10 72.

11 Defendant, through its agents and/or employees, violated the above public policies by 1) by
12 discriminating and retaliating against Plaintiff for reporting illegal and/or criminal conduct in the
13 workplace; and 2) interfering, discriminating, and retaliating against Plaintiff for utilizing and/or
14 attempting to utilize protected medical leave. The discharge was unlawful and in violation of the
15 public policy of the State of Oregon.

16 73.

17 Defendant's discharge of Plaintiff was in retaliation for Plaintiff's pursuit and exercise of
18 Plaintiff's rights related to Plaintiff's role as an employee, which rights are of important public
19 interest.

20 74.

21 Plaintiff requests an award of damages, equitable relief, costs, and attorney's fees as alleged in
22 paragraphs 31 through 35, inclusive, supra.

23 ///

24 ///

25 ///

26 ///

TENTH CLAIM FOR RELIEF

Defamation
(Against all Defendants, Except ROGERS)

75.

5 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
6 forth herein.

76

8 Defendants, through their supervisors, agents, and/or employees, orally published and continue
9 to publish false and non-privileged statements of asserted fact by telling others that Plaintiff's
10 work performance was poor. Defendants published and continue to publish false and malicious
11 statements about Plaintiff's work performance, work history with LANGE TRUCKING, and
12 general character to people inside and outside of the workplace. These statements directly
13 injured Plaintiff in his occupation, profession, trade, and/or business by imputing that Plaintiff
14 was not fit to work in his occupation, profession, trade, and/or business.
15

77.

17 Defendants acted and continue to act in bad faith by making the false statements described-above
18 about Plaintiff because the statements were malicious and were knowingly false and/or
19
20 Defendants had no reasonable grounds to believe in the truth of the statements made about
21 Plaintiff and the statements were not made for any legitimate business purpose.

78.

23 Defendants' defamatory statements constitute libel and/or slander *per se*, therefore general
24 damages are presumed.

111

1 79.

2 Plaintiff requests an award of damages, equitable relief, and costs as alleged in paragraphs 31, 32
3 and 35, supra.

4 **ELEVENTH CLAIM FOR RELIEF**

5 Intentional Interference with Economic Relations
6 (Against All Defendants, Except ROGERS)

7 80.

8 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
9 forth herein.

10 81.

11 Defendants, while acting within the course and scope of their employment with LANGE
12 TRUCKING, intentionally interfered with Plaintiff's employment pursuits.

13 82.

14 Defendants' interferences with Plaintiff's relationship with potential employers was in the form
15 of publishing and republishing false information regarding Plaintiff's work performance and
16 employment history with LANGE TRUCKING and character. Said interferences were
17 accomplished through improper means and with improper purposes.

18 83.

19 Defendants' actions caused interference and continue to cause interference and damage to
20 Plaintiff's reputation and employment opportunities.

21 84.

22 Plaintiff requests an award of damages, equitable relief, and costs as alleged in paragraphs 31
23 through 35, inclusive, supra.

TWELFTH CLAIM FOR RELIEF

Intentional Interference with Economic Relations (Against WILLY LANGE, BOB LANGE, and BAILEY)

85.

5 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
6 forth herein.

86

87.

13 Defendants interfered with Plaintiff's relationship with LANGE TRUCKING by discriminating
14 against Plaintiff on the basis of injured worker status and/or safety complaints and/or wage
15 complaints and/or utilization of protected medical leave, by terminating him, and by
16 publishing/republishing false information regarding Plaintiff's work performance, employment
17 history with LANGE TRUCKING, and character. Said interferences were accomplished through
18 improper means and with improper purposes and in bad faith.

88

21 Defendants' actions caused interference and damages to Plaintiff's reputation and employment
22 with LANGE TRUCKING

80

24 Plaintiff requests an award of damages, equitable relief, and costs as alleged in paragraphs 31
25 through 35, inclusive, supra.
26

THIRTEENTH CLAIM FOR RELIEF

Failure to Pay Back Wages/Civil Penalty ORS 652.140/150
(Against LANGE TRUCKING)

90.

5 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
6 forth herein.

91

8 Defendant is an employer in the State of Oregon subject to ORS 652.140(1), which requires that
9
10 upon termination of employment all wages earned and unpaid at the time of such discharge or
11 termination shall become due and payable not later than the end of the first business day after the
12 discharge or termination.

92.

14 Plaintiff was discharged on March 23, 2009; therefore, Plaintiff's final paycheck was due paid in
15 full by the end of March 24, 2009. At the time, Plaintiff was owed three weeks (120 hrs) of
16 vacation pay totaling \$2,444.40.

93.

19 On or about April 13, 2009, Plaintiff made a demand for his vacation pay. Plaintiff was not
20 issued a final paycheck, although he was owed significant back wages by Defendant until April
21 16, 2009, twenty-three (23) days after termination. At that time, Plaintiff only received two
22 weeks (80 hrs) of vacation pay totaling \$1,629.60.

94

24 Plaintiff attempted to make a demand for his remaining wages by certified mail on June 3, 2009.
25
26 However, Plaintiff is informed and believes that **LANGE TRUCKING** refused to accept delivery

1 of the letter and it was returned stamped "return to sender: unclaimed" on July 6, 2009. The same
2 day, Plaintiff faxed the letter to LANGE TRUCKING. Plaintiff did not receive payment of his
3 remaining one week (40 hrs) of back wages until on or about July 23, 2009 by mail in the
4 amount of \$814.80. At the same time, Plaintiff also received a second check in the amount of
5 \$814.80, which appeared to be in partial payment of the civil penalty owed.
6

7 95.

8 Pursuant to ORS 652.150, Plaintiff's wages continued, including weekends, from the due date of
9 March 24, 2009, at his hourly rate upon termination for eight hours per day. At the time of his
10 termination, Plaintiff's rate was calculated at \$20.37/hr or 162.92/day. Plaintiff hereby demands
11 the civil penalty be imposed on Defendant over the maximum period of 30 days provided by the
12 statute in the amount \$4,888.80, less \$814.80 tendered for a total of not less than \$4,074.00.
13

14 96.

15 In the alternative, Plaintiff demands a civil penalty totaling 100% of the back wages owed and
16 tendered late, equal to \$2,444.40, less \$814.80 tendered, for a total of not less than \$1,629.60.
17

97.

18 Plaintiff further demands prejudgment interest at the statutory rate on the outstanding amount of
19 the civil penalty actually imposed.
20

98.

21 Plaintiff requests an award of reasonable attorney's fees and costs pursuant to ORS 652.200 in an
22 amount upon proof at the time of trial.
23

24 ///

25 ///

26

FOURTEENTH CLAIM FOR RELIEF

Defamation (Against ROGERS)

100.

Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set forth herein.

101.

Defendant orally published and continues to publish false and non-privileged statements of asserted fact by telling others that Plaintiff's work performance was poor. Defendant published and continues to publish false and malicious statements about Plaintiff's work performance and general character to people inside and outside of the workplace, including claiming that Plaintiff "is always in a hurry and very demanding when it comes to unloading him quickly" and that Plaintiff "did not even have to be in until 8:00 p.m." implying that Plaintiff was unreasonably hasty, after Plaintiff was in an auto accident on February 19, 2009. These statements directly injured Plaintiff in his occupation, profession, trade, and/or business by imputing that Plaintiff was not fit to work in his occupation, profession, trade, and/or business.

102

Defendants acted and continue to act in bad faith by making the false statements described above about Plaintiff because the statements were malicious and were knowingly false and/or Defendants had no reasonable grounds to believe in the truth of the statements made about Plaintiff and the statements were not made for any legitimate business purpose.

111

111

1 103.

2 Defendants' defamatory statements constitute libel and/or slander *per se*, therefore general
3 damages are presumed.

4 104.

5 Plaintiff requests an award of damages, equitable relief, and costs as alleged in paragraphs 31, 32
6 and 35, *supra*.

7 **FIFTEENTH CLAIM FOR RELIEF**

8 Intentional Interference with Economic Relations
9 (Against ROGERS)

10 105.

11 Plaintiff restates and incorporates by reference paragraphs 1-30, inclusive, as though fully set
12 forth herein.

13 106

14 Defendants intentionally interfered with Plaintiff's employment.

15 107.

16 Defendant's interferences with Plaintiff's relationship with LANGE TRUCKING was in the
17 form of publishing and republishing false information regarding Plaintiff's work performance
18 and character, including claiming that Plaintiff "is always in a hurry and very demanding when it
19 comes to unloading him quickly" and Plaintiff "did not even have to be in until 8:00 p.m."
20 implying that Plaintiff was unreasonably hasty, after Plaintiff was in an auto accident on
21 February 19, 2009. Said interferences were accomplished through improper means and with an
22 improper purpose, therefore in bad faith.

23 ///

1 108.

2 Defendants' actions caused interference and continue to cause interference and damage to
3 Plaintiff's reputation and employment opportunities.
4

5 109.

6 Plaintiff requests an award of damages, equitable relief, and costs as alleged in paragraphs 31
7 through 35, inclusive, supra.
8

JURY TRIAL DEMAND

9 Plaintiff demands a jury trial on all claims and issues to the extent allowed under the law.
10

11 **WHEREFORE**, Plaintiff requests the following judgments and relief according to proof:
12

13 1. Economic damages;
14 2. Non-economic damages;
15 3. Reasonable costs and attorney's fees per statute;
16 4. Reinstatement and a permanent injunction enjoining Defendants from engaging in any
17 employment practice which discriminates on the basis as alleged in this Complaint;
18 5. For prejudgment and post-judgment interest as appropriate and allowed by law;
19 6. On all claims, as applicable, amounts necessary to offset the income tax consequences of
20 receiving a lump sum payment, rather than receiving payment of wages over the
21 applicable time frame;
22 7. Imposition of the civil penalty provided by ORS 652.150;

23 ///
24
25 ///
26

8. Upon motion, punitive damages, as alleged; and
9. All such other relief as this Court may deem proper.

Dated: February 18, 2010.

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